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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 20.05.2024

+ W.P.(C) 7256/2024, CM APPL. 30253/2024 –Ex. (Org.) & CM APPL. 30254/2024 –Ex.

ATUL KUMAR AND ORS

..... Petitioners

Through: Mr. Sarvesh Singh, Sh. Shiv Kumar Vats and Ms. Kavya Budhiraja, Advocates

versus

THE CHIEF SECRETARY AND ORS

..... Respondents

Through: Mrs. Avnish Ahlawat, SC, GNCTD with Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam, Mr. Mohnish Sehrawat, Advocates Mr. Sahil Vijayran, Ms. Ria Thukral and Ms. Perna Chaudhary, Advocates

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

REKHA PALLI, J (ORAL)

1. The present petition under Articles 226 and 227 of The Constitution of India seeks to assail the interim order dated 14.03.2024 passed by the learned Central Administrative Tribunal (the learned Tribunal) in O.A. No. 381/2014, whereby the learned Tribunal while issuing notice in the OA preferred by the petitioners/applicants has rejected their prayer to appear provisionally in the Combined Examination 2023 for the posts of Lower Division Clerk, Junior Assistant, Stenographer Grade-II, Junior Stenographer (Hindi/English), Lower Division Clerk-Cum-Typist, Jr. Stenographer, Stenographer and Asstt. Grade -I against Advertisement No. 05/2023 dated 22.12.2023.

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2. We may, at the outset, note that as per the advertisement, online applications for the above post have been invited from candidates who fall within the age limit of 18 to 27 years as on 07.02.2024 with the applicable age relaxation for the special categories. The petitioners are all about 29 years of age and are therefore, not eligible to apply under the aforesaid advertisement. Consequently the petitioners approached the Central Administrative Tribunal by way of OA 381/2024 seeking a direction to the respondents to grant them a requisite age relaxation primarily on the ground that the examination was being held after more than six years during which time they had become over age. While filing the OA, the petitioners also sought interim relief for permission to appear provisionally in the examination, which interim prayer has been rejected by the learned Tribunal while issuing notice in the OA. Consequently the OA is still pending consideration before the learned Tribunal.

3. It is in these circumstances that the present writ petition has been filed. In support of the petition, learned counsel for the petitioners submits that the learned Tribunal has failed to appreciate that the recruitment process was being conducted after more than six years, with the earlier examination having been held in 2017. He submits that in several cases, where recruitment examinations were being conducted after such delay, age relaxation has been granted to several similarly situated persons. He submits that even the railways have in the recruitments held in the recent past granted age relaxations to candidates. Further, he draws our attention to the decision rendered by a Co-ordinate Bench of this Court dated 20.01.2023 in W.P.(C) 90/2023 titled *Sachin & Ors. vs Central Reserve Police Force & Anr.* to submit that the petitioners are also entitled to the same age



relaxation. He, therefore, prays that writ petition be allowed and the petitioners be permitted to provisionally appear in the aforesaid recruitment examination.

4. Per contra, learned counsel for the respondents supports the impugned order, and points out that there are many other similarly placed candidates who may have, in the interregnum, become over-age and are therefore ineligible to apply under the present advertisement. She submits that for maintaining parity of the petitioners with such other similarly situated candidates, the petitioners cannot be given any special treatment. Doing so, she contends, will unnecessarily open a flood gate for one and all, which, this Court ought not to permit.

5. Having considered the submissions of the learned counsel for the parties and perused the record, we are unable to accept the petitioners' request. Merely because the respondent did not hold the recruitment examination for a number of years, would not in itself be a ground for the petitioners to claim age relaxation. In our considered view, the petitioners neither have any right in law to claim that they must be permitted to apply for the said post nor have they made out any special circumstances so as to warrant interference of this Court with the upper age limit provided by the respondents in the advertisement. We also find merit in the plea of Mrs. Ahlawat, learned counsel for the respondents, that in case, this Court were to grant provisional permission to the petitioners, the same will open a flood gate for all over age candidates to approach the Court to seek similar age relaxation.

6. For the aforesaid reasons, we are of the view that the petitioners have not been able to make out any prima facie case for grant of interim



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permission to them to appear in the examination.

7. Accordingly, the writ petition, alongwith pending applications, is, dismissed. We, however, make it clear that the dismissal of this petition will not have a bearing on the merits of the pending OA before the learned Tribunal.

(REKHA PALLI)
JUDGE

(SAURABH BANERJEE)
JUDGE

MAY 20, 2024/akr

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